

Application No. 10/686,138  
Amendment dated September 16, 2008  
Reply to Office Action of August 6, 2008

### REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Action mailed on August 6, 2008, and the references cited therewith.

Claims 1, 5, 8, 9, 13, 14, 17, 18, and 19 are amended, no claims are canceled, claims 23 and 24 were previously withdrawn, and no claims are added; as a result, claims 1-9, 12-19, and 22-24 are now pending in this application.

Applicant has amended independent claims 1 and 13 to more clearly recite the claimed subject matter and respectfully submits that none of the amendments introduce any new subject matter. Support for the amendments to independent claims 1 and 13 can be found, at least, in paragraph 0023.

### Examiner Interview

Applicant thanks Examiner Tyson for the courtesy of a telephone interview on September 16, 2008. Applicant and the Examiner discussed potential language to differentiate claims from the references and articulate allowable subject matter in the present application. Although no agreement was reached, Applicant has endeavoured to capture the points of the discussion in the presently amended claims.

### Claim Objections

Claims 8 and 18 were objected to because of the following informalities: claims 8 and 18 recite incomplete sentences.

Applicant has amended claims 8 and 18 to recite complete sentences. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to claims 8 and 18.

### § 102 Rejection of the Claims

Claims 1, 2, 4, 5-8, 13, 14, and 16-18 were rejected under 35 USC §102(b) as being anticipated by Keilman, et al. (U.S. Patent No. 6,231,516).

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Claims 1 and 4 were rejected under 35 USC §102(b) as being anticipated by Solovay (U.S. Patent No. 6,482,227).

Regarding Keilman

Applicant respectfully submits that Keilman does not teach all the elements as recited in independent claims 1 and 13. For example, Keilman does not describe radio frequency (RF) markers that form generally concentric loops on only one side of the first cell and the second cell to respectively delineate a circumference of the first cell and a circumference of the second cell, as recited, in part, in independent claim 1.

In contrast, Keilman provides an RF coupling coil that is helically coiled around the circumference of a stent fabricated by slotting a metal tube (column 18, lines 6-8, Fig. 11A) and an RF coupling coil that is helically coiled about the circumference of a non-woven wire tubular stent (column 18, lines 50-54, Fig. 11B). One of ordinary skill in the art would interpret the word "helically," as used in the Keilman reference as "a three-dimensional curve that lies on a cylinder or cone, so that its angle to a plane perpendicular to the axis is constant", as is illustrated by Keilman in Figs. 11A and 11B. (helix. Dictionary.com. *American Heritage Dictionary*. <http://dictionary.reference.com/browse/helix> (accessed: August 28, 2008)).

Because the RF coupling coil, as apparently taught by Keilman, is helical, being coiled about a tubular circumference, that helical RF coupling coil does not form generally concentric loops on only one side of the first cell and the second cell respectively, as provided, in part, in independent claim 1.

Furthermore, Keilman teaches that the RF coupling coil will likely be adhesively attached to the tube at several spaced apart locations (column 18, lines 15-17) with the ends of the RF coupling coil being attached to one or more transducers or sensors (column 18, lines 17-18).

Because the RF coil is helically wound around the tube and has ends that are attached to one or more transducers, the RF coil does not respectively delineate a

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circumference of the first cell and a circumference of the second cell, as provided, in part in claim 1. Rather, it appears that Keilman teaches an RF coil which delineates the circumference, or the partial circumference, of a tube, as is illustrated in Keilman Figs. 11A and 11B.

Additionally, independent claim 13, provides, in part, radio frequency (RF) markers located on only the peripheral surface of the structure that respectively delineate circumferences of the two or more cells.

As discussed above, Keilman appears to teach an RF coil which delineates the circumference, or the partial circumference, of a tube, as is illustrated in Keilman Figs. 11A and 11B.

For the reasons set forth above, Applicant respectfully submits that each and every element and limitation of independent claims 1 and 13, as amended, is not present in the Keilman reference. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 102 rejection of independent claims 1 and 13, as well as those claims that depend therefrom.

#### Regarding Solovay

Applicant respectfully submits that Solovay does not teach all the elements as recited in independent claim 1. For example, Solovay does not describe radio frequency (RF) markers that form generally concentric loops on only one side of the first cell and the second cell to respectively delineate a circumference of the first cell and a circumference of the second cell, as recited, in part, in independent claim 1.

In contrast, Solovay provides a stent which preferably includes a number of radiopaque markers, where the markers are coils of radiopaque metal that are wrapped around the struts of the stent (column 7, lines 5-8, Fig. 1).

A wrapped coil is a helix, and as discussed above a helical coil does not form generally concentric loops on only one side of the first cell and the second cell respectively, as provided, in part, in independent claim 1.

Furthermore, because Solovay apparently teaches that coils of metal are wrapped around struts of the stent (column 7, lines 5-8, Fig. 1), the coils do not

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respectively delineate a circumference of the first cell and a circumference of the second cell, as provided, in part in claim 1. Rather, it appears that Solovay teaches coils which delineate the circumference of stent struts.

For the reasons set forth above, Applicant respectfully submits that each and every element and limitation of independent claim 1, as amended, is not present in the Solovay reference. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 102 rejection of independent claim 1, as well as those claims that depend therefrom.

§103 Rejection of the Claims

Claims 3, 9, 15 and 19 were rejected under 35 USC § 103(a) as being unpatentable over Keilman, et al. (U.S. Patent No. 6,231,516).

Claims 5-9 were rejected under 35 USC § 103(a) as being unpatentable over Solovay (U.S. Patent No. 6,482,227).

Claims 2 and 3 were rejected under 35 USC § 103(a) as being unpatentable over Solovay (U.S. Patent No. 6,482,227) in view of Doran, et al. (U.S. Publication No. 2002/0055770).

Claims 12 and 22 were rejected under 35 USC § 103(a) as being unpatentable over Keilman, et al. (U.S. Patent No. 6,231,516) in view of Jackson, et al (U.S. Publication No. 2003/0004563).

Claim 12 was rejected under 35 USC § 103(a) as being unpatentable over Solovay (U.S. Patent No. 6,482,227) in view of Jackson, et al (U.S. Publication No. 2003/0004563).

Applicant respectfully traverses the rejections.

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For the reasons provided above with respect to the 102 rejections, Applicant respectfully submits that independent claims 1 and 13 are allowable in view of both the Keilman reference and the Solovay reference.

From the Applicant's review, the Jackson reference does not cure the deficiencies of the Keilman reference with respect to claims 1 and 13 as discussed herein. For example, the Jackson reference does not describe, teach, or suggest, under *KSR* or otherwise, the language discussed above in connection with the 102 rejections.

As such, the references do not, either independently or in combination, describe, teach or suggest each and every element and limitation of independent claims 1 and 13, as amended.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejections of dependent claims 3, 9, 15, 19, 12, and 22.

Further, from the Applicant's review, the Doran and Jackson references do not cure the deficiencies of the Solovay reference with respect to claim 1 as discussed herein. For example, the Doran and Jackson references do not describe, teach, or suggest, under *KSR* or otherwise, the language discussed above in connection with the 102 rejections.

As such, the references do not, either independently or in combination, describe, teach or suggest each and every element and limitation of independent claim 1 as amended.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejections of dependent claims 5-9, 2, 3, and 12.

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### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0122 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 C.F.R. §1.8: The undersigned hereby certifies that this correspondence is being transmitted to the United States Patent Office facsimile number (571) 273-8300 on

September 16, 2008

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